

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUAN CALLEJAS,

Plaintiff,

-against-

ALEX M. PERSICO and FRANK PERSICO,

Defendants.

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LINDSAY, Magistrate Judge:

Before the court is plaintiff's motion dated March 11, 2011 seeking a protective order precluding defendants from any further extensions to conduct the deposition of plaintiff's expert Dr. Flugman. In response, defense counsel states that despite efforts to schedule the deposition, Dr. Flugman was not produced, and requests that Dr. Flugman be precluded from giving testimony at the time of trial. Based upon the correspondence between the parties, the court notes that Dr. Flugman was (i) unavailable from February 15th until February 28th; (ii) was completely booked with surgeries from March 3rd through March 11th; and (iii) unavailable from March 1st until March 21st. Plaintiff proffered two available dates for Dr. Flugman, March 23rd or April 6th, both dates outside the discovery deadline of March 14, 2011 set by this court.

The court will extend the discovery deadline an additional 30 days for the limited purpose of conducting Dr. Flugman's deposition. All discovery, inclusive of expert discovery, is to be completed by April 14, 2011 for this limited purpose. If Dr. Flugman's availability is so limited that he cannot be available for a deposition, the plaintiff may need to consider retaining another expert. Neither party may serve new requests or discovery applications. The deadline to commence dispositive motion practice is extended to April 28, 2011. The final conference scheduled for April 18, 2011 is adjourned to May 18, 2011 at 2:30 p.m. The parties are directed to file a proposed joint pretrial order prior to the final conference. Plaintiff's failure to comply with this order may result in sanctions. No further extensions will be granted.

Dated: Central Islip, New York
March 28, 2011

SO ORDERED:

_____/s_____
ARLENE R. LINDSAY
United States Magistrate Judge